In Re Kristopher Purdue, CV10-0376

Kristopher Purdue is selling his right to receive a guaranteed future payment totaling $79,000.00. In exchange, he will receive a present payment of $41,750.00.

The annuity pays out guaranteed payments based upon a settlement agreement made in 1997. Mr. Purdue desires to sell the right to a $70,000.00 payment due August 6, 2015 in exchange for a present payment of $41,750.00. The annuity actually pays $114,897.52 on that date. Mr. Purdue will receive the balance.

Instead of selling his right to the structured settlement payments, Mr. Purdue could borrow the $41,750.00 and then paid it back in installments with each of the payments he is selling, the equivalent interest rate would he would pay for that loan would be 12.12 percent per year. This suggests that, if Mr. Purdue could borrow the funds from any source for substantially less than 12.12 percent, he would be better off doing so.

The Court is required to make express written findings required by sub-part (a) of Insurance Code §10139.5 before the subject transfer/sale of the aforesaid structured settlement payment can be approved.

The declaration of the payee has not been submitted with the petition. The declaration is necessary to enable the Court to determine whether the payee understands the transaction, whether the transfer is fair and reasonable, and whether it is in the best interest of the payee. The declaration is also necessary to ascertain whether the payee has support obligations.

The petition appears to have been served on the interested parties, including the State Attorney General's office. However, the matter will not be approved unless and until there is receipt of the affidavit or declaration of the payee establishing certain facts, and the Court has gone over the applicable provisions with the payee.